UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHARLES WATSON,

Plaintiff,

-V-

9:08-CV-62 (NAM/ATB)

DR. LESTER WRIGHT, Chief Medical Officer, DOCS; and DOYON DE AZEVEDO, FHSD, Clinton CF,

Defendants.

APPEARANCES:

CHARLES WATSON 03-A-2302 Clinton Correctional Facility P.O. Box 2002 Dannemora, New York 12929 Plaintiff *Pro Se*

HON. ERIC T. SCHNEIDERMAN, Attorney General for the State of New York AARON M. BALDWIN, Esq., Assistant Attorney General The Capitol Albany, New York 12224 Attorney for Defendants

Hon. Norman A. Mordue, Chief U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff, an inmate in the custody of the New York State Department of Corrections and Community Supervision, brought this *pro se* action under 42 U.S.C. § 1983. Defendants moved (Dkt. No. 92) for summary judgment dismissing the remaining claim in the second amended complaint (Dkt. No. 40). Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Andrew T. Baxter issued a thorough Report and Recommendation (Dkt. No. 99) recommending that the motion be granted and the case dismissed.

After reviewing the record and applicable law, Magistrate Judge Baxter concludes that no reasonable jury could find that defendants acted with deliberate indifference to plaintiff's medical needs. Nor could a reasonable jury find that Dr. de Azevedo's treatment of plaintiff was based on retaliatory or discriminatory motives, as opposed to an exercise of his medical judgment.

Moreover, Magistrate Judge Baxter finds that, even if there were an issue of material fact, defendants would be entitled to summary judgment based on qualified immunity, because it was objectively reasonable for them to believe that their treatment of plaintiff did not constitute deliberate indifference to his medical needs.

Plaintiff has submitted an objection (Dkt. No. 102). The issues raised in plaintiff's objection have been addressed in the Report and Recommendation, and the Court does not discuss them again here. Upon *de novo* review pursuant to 28 U.S.C. § 636(b)(1)(C), the Court accepts the Report and Recommendation in all respects.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 99) is accepted; and it is further

ORDERED that defendants' motion for summary judgment (Dkt. No. 92) is granted and the case dismissed; and it is further

ORDERED that the Clerk serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: September 27, 2011

Syracuse, New York

Vorman A. Mordue

Chief United States District Court Judge